

AGREEMENT

Between

BROWARD COUNTY

and

COASTAL ARCHAEOLOGY AND HISTORY RESEARCH, INC.

for

Archaeological Consultant Services

# AGREEMENT

Between

BROWARD COUNTY

and

COASTAL ARCHAEOLOGY AND HISTORY RESEARCH, INC.

for

Archaeological Consultant Services

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY,"

and

COASTAL ARCHAEOLOGY AND HISTORY RESEARCH, INC., an independent contractor, hereinafter referred to as "CONSULTANT."

WHEREAS, the Broward County Code of Ordinances, Sections 1-117(b) and (c), authorizes COUNTY to contract for the services of a County Archaeologist; and

WHEREAS, COUNTY has had a consulting County Archaeologist as part of its staff since 1994, and the services performed by this position serve a county and public purpose; and

WHEREAS, COUNTY desires to enter into this Agreement with CONSULTANT, who is a qualified corporation selected to perform the archaeological services set forth in this Agreement, NOW THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, COUNTY and CONSULTANT agree as follows:

## ARTICLE 1

### DEFINITIONS AND IDENTIFICATIONS

- 1.1 **Agency** – The Broward County Historical Commission.
- 1.2 **Agreement** - This document, Articles 1 through 10, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.3 **Board** - The Broward County Board of County Commissioners.

- 1.4 **Budget** – Budget shall mean Forty-nine Thousand (\$49,000.00) inclusive of all archaeological consultant services contemplated as part of the FY 2009-2010 Agency budget.
- 1.5 **Consultant** – Coastal Archaeology and History Research, Inc., a corporation selected to perform the services set forth in this Agreement.
- 1.6 **Contract Administrator** – The Administrator and County Historic Preservation Officer of the Broward County Historical Commission, or the designee of such County Administrator or Director. The primary responsibilities of the Contract Administrator are to coordinate and communicate with CONSULTANT and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.7 **County** – Broward County, a political subdivision of the State of Florida.
- 1.8 **County Administrator** – The administrative head of COUNTY pursuant to Sections 3.02 and 3.03 of the Broward County Charter.
- 1.9 **County Attorney** - The chief legal counsel for COUNTY who directs and supervises the Office of the County Attorney pursuant to Section 2.10 of the Broward County Charter.
- 1.10 **Project** – The Project consists of the services described in Article 2.

## ARTICLE 2

### SCOPE OF SERVICES AND DELIVERABLES

- 2.1 CONSULTANT shall perform all services identified by this Agreement and any exhibits incorporated by reference, which are attached and made a part thereof. COUNTY is solely responsible for decisions concerning the suitability of recommendations of CONSULTANT and for decisions to implement such recommendations.
- 2.2 CONSULTANT shall oversee compliance with the Historical Commission Ordinance, the Cultural Resources Sites Ordinance, and other statutes, ordinances, regulations, rules, and orders that are consistent with COUNTY's work regarding archaeological and historical sites on and within the lands and submerged lands of Broward County. This shall include, but not be limited to:
- 2.2.1 Maintaining the Florida Master Site Files on archaeological and historical sites for COUNTY;

- 2.2.2 Reviewing development plans and associated cultural resource reports to determine the effect of development upon archaeological and historical resources;
  - 2.2.3 Conducting archaeological research, fieldwork, and monitoring of the archaeological work of others within Broward County, as may be necessary or appropriate;
  - 2.2.4 Making written and oral reports to COUNTY regarding archaeological matters within Broward County; assisting other governmental agencies, including the Florida Department of State Division of Historical Resources, and property owners who encounter archaeological resources during the course of development in regulatory compliance issues;
  - 2.2.5 Overseeing the preservation and protection of archaeological resources preserved on public lands; and
  - 2.2.6 Assisting in applying, conducting, and completing of historic preservation funding grants to COUNTY for archaeological work.
- 2.3 CONSULTANT agrees to meet with COUNTY personnel, at reasonable times and upon reasonable notice, to discuss and assist in developing specific criteria that may be used by COUNTY personnel in evaluating the significance of archaeological resources. CONSULTANT further agrees to meet with COUNTY personnel as needed to discuss other issues related to the completion of the services herein described.
- 2.4 CONSULTANT shall provide interim reports and maintain all records required by the Contract Administrator, which reports may be provided to COUNTY at the Agency's monthly meeting. Incomplete and/or incorrect records shall be grounds for COUNTY's disallowance of any fees or expenses based on such records.
- 2.5 If requested by the Contract Administrator, CONSULTANT shall appear before the Agency or COUNTY to deliver interim reports, survey reports or a final report on particular work covered under the Agreement or to explain the services under this Agreement. A final report shall mean a document summarizing CONSULTANT's services submitted to COUNTY at the end of a particular work project during the course of the Agreement or a final written summary at the end of the Project as a whole.
- 2.6 CONSULTANT shall provide, but not be limited to, the following deliverables as evidence of services identified in Section 2.2 through 2.5 above:
- 2.6.1 Provide quarterly updates of the Broward County Historical Commission holdings of the Florida Master Site File. This includes the FMSF Geographic Information System (GIS), digital database, and paper file of Broward County archaeological and historical sites. CONSULTANT also

understands that it may be necessary to provide additional updates under this subsection separate from the quarterly updates;

- 2.6.2 Integrate the Historical Commission's Cultural Resource Management, Geographic Information System (GIS) with the Broward County's already establish permit review system housed by the County's Development and Environmental Regulation Division;
- 2.6.3 Maintain a ninety-eight percent (98%) on-time efficiency of Broward County archaeological and historical resources development reviews;
- 2.6.4 Conduct a minimum of four (4) site visits to active archaeological surveys within Broward County during the term of this Agreement;
- 2.6.5 Provide eleven (11) monthly reports to the Historical Commission to be delivered one (1) each at the Broward County Historical Commission's board meeting;
- 2.6.6 Attend the Broward County Historical Commission board meetings and sub-committee meetings;
- 2.6.7 Conduct a minimum of three (3) joint programs relative to Broward County Historical or Archaeological resources annually;
- 2.6.8 Prepare and submit applications to the Florida Master Site File, as well as local and National Historic Registers of historic places;
- 2.6.9 Update, maintain and integrate Cultural Resource Collections database into *Past Perfect* museum cataloging software; and
- 2.6.10 Organize and maintain the Historical Commission's, physical Cultural Resource Collection (Archaeological and Historical documents and artifacts) at the Historic Commission's West Side School location. This shall include archival preparation and storage, and display as appropriate.

### ARTICLE 3

#### TERM AND TIME OF PERFORMANCE

- 3.1 This Agreement shall begin January 1, 2010, and shall end on September 30, 2010, unless terminated earlier.
- 3.2 The term of this Agreement may be extended, reduced, or amended upon agreement of COUNTY and CONSULTANT, subject to budgetary limitations and final approval of the Board.

## ARTICLE 4

### COMPENSATION AND METHOD OF PAYMENT

4.1 COUNTY agrees to pay CONSULTANT as compensation for archaeological consultant services under the terms of this Agreement a total amount not to exceed Forty-nine Thousand Dollars (\$49,000.00) per annum, pro-rated to eight (8) payments of Four Thousand Eighty-three and 33/100 Dollars (\$4,083.33) and one (1) payment of Four Thousand Eighty-three and 38/100 Dollars (\$4,083.37), which amount shall be accepted by CONSULTANT as full compensation for all work performed under this Agreement. It is acknowledged and agreed by CONSULTANT that this amount is the maximum payable and constitutes a limitation upon COUNTY's obligation to compensate CONSULTANT for archaeological services related to this Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon CONSULTANT's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services. No amount shall be paid to CONSULTANT to reimburse expenses. The compensation shall be paid in accordance with, and shall not exceed, the monthly payments set forth above without prior written consent of COUNTY.

#### 4.2 METHOD OF BILLING AND PAYMENT

4.2.1 CONSULTANT may submit bills following completion of work as outlined in Section 4.1 of this Agreement. However, requests for payment shall not be made more frequently than on a monthly basis. All bills for payment shall designate the nature of the work performed.

4.2.2 If the submittals, work product, and materials tendered to COUNTY are not satisfactory to the Contract Administrator, payment may be withheld for thirty (30) days, and in that period CONSULTANT shall resubmit the work product in a satisfactory manner as determined by the Contract Administrator.

4.2.3 COUNTY shall pay CONSULTANT within thirty (30) calendar days of receipt of a proper invoice, as required by the Broward County Prompt Payment Ordinance (Broward County Ordinance No. 89-49, as may be amended from time to time). To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Contract Administrator. The total due shall be the monthly prorated portion on that invoice or as otherwise described in herein.

4.2.4 Payment shall be made to:

Coastal Archaeology and History Research, Inc.  
411 SW 10 Street  
Fort Lauderdale, FL 33315

## ARTICLE 5

### ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES

- 5.1 Any changes that would increase, decrease, or otherwise modify the Scope of Services shall be made in accordance with COUNTY's established policies and must be contained in a written agreement, executed by the parties hereto, with the same formality and of equal dignity herewith, prior to any deviation from the terms of this Agreement, including the initiation of any additional services.
- 5.2 Additional services shall include any service outside the Scope of Services as set forth herein.
- 5.3 COUNTY shall compensate CONSULTANT for additional services on the basis of fees and costs set forth in any amendment to this Agreement that may be negotiated between the parties.

## ARTICLE 6

### COUNTY'S RESPONSIBILITIES

- 6.1 COUNTY shall provide the following materials and information to CONSULTANT:
  - A. Existing Florida Master Site File data and other archaeological information held by the Agency on Broward County's terrestrial and marine archaeological sites to be studied and reviewed under the terms of the Agreement;
  - B. Access to COUNTY's existing bathymetric, environmental, geographical, geological, magnetometer, soil, sonar, topographical or other similar scientific data or aerial photography and imagery of Broward County lands, wetlands, and its submerged lands that aids CONSULTANT in the study and identification of the terrestrial and marine archaeological sites to be reviewed under the terms of the Agreement;
  - C. Access to persons and materials that have been offered to the Agency by other governmental bodies, educational institutions, corporations or persons to assist in the undertaking and completion of the terms of the Agreement; and
  - D. Availability of other related materials or COUNTY personnel to assist CONSULTANT in the successful provision of archaeological consultant services that may arise regarding the performance of this Agreement.

## ARTICLE 7

### INDEMNIFICATION AND INSURANCE

#### 7.1 INDEMNIFICATION

CONSULTANT shall at all times hereafter indemnify, hold harmless and, at County Attorney's option, defend or pay for an attorney selected by County Attorney to defend COUNTY, its officers, agents, servants, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused by negligent act or omission of CONSULTANT, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by Contract Administrator and County Attorney, any sums due CONSULTANT under this Agreement may be retained by COUNTY until all of COUNTY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by COUNTY.

#### 7.2 INSURANCE

CONSULTANT shall furnish a Certificate of Insurance or endorsements evidencing the insurance coverage specified in Exhibit "A", and such Certificate of Insurance shall be attached hereto and incorporated as part of this Agreement prior to beginning performance of work under this Agreement. The required Certificates of Insurance shall name the types of policies provided, the insured and additional insured, as well as inception and expiration, referring specifically to this Agreement.

## ARTICLE 8

### TERMINATION OF AGREEMENT

- 8.1 This Agreement may be terminated for cause by action of the Board or by CONSULTANT if the party in breach has not corrected the breach within thirty (30) calendar days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience at any time by the Contract Administrator upon not less than ninety (90) calendar days' prior written notice by the Contract Administrator. This Agreement may also be terminated by the Contract Administrator upon such notice as the Contract Administrator deems appropriate under the circumstances in the event the Contract Administrator determines that termination is necessary to protect the public health, safety, or welfare.
- 8.2 Termination of this Agreement for cause by COUNTY shall include, but not be limited to, negligent, intentional, or repeated submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement, or multiple breach of this Agreement which has a material adverse effect

on the efficient administration of the Project notwithstanding whether any such breach was previously waived or cured.

- 8.3 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement, except that notice of termination by the Contract Administrator which the Contract Administrator deems necessary to protect the public health, safety, or welfare, may be verbal notice through the Contract Administrator which shall be promptly confirmed in writing by the Contract Administrator in accordance with the "Notices" section of this Agreement.
- 8.4 In the event this Agreement is terminated for convenience by COUNTY, CONSULTANT shall be paid for any services performed to the effective date of termination of this Agreement; however, upon being notified of COUNTY's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by COUNTY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for COUNTY's right to terminate this Agreement for convenience.
- 8.5 In the event this Agreement is terminated, any compensation payable by COUNTY shall be withheld until all documents are provided to COUNTY pursuant to Section 10.1, Ownership of Documents.

## ARTICLE 9

### EEO COMPLIANCE

- 9.1 CONSULTANT shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, marital status, political affiliation, disability, or sexual orientation (including but not limited to Broward County Code, Chapter 16½) in the performance of this Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work in the performance of this Agreement. CONSULTANT shall include the foregoing or similar language in its contracts with any subcontractors or subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26, as amended. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as COUNTY deems appropriate.

CONSULTANT shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by COUNTY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

By execution of this Agreement, CONSULTANT represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as may be amended from time to time). COUNTY hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle COUNTY to terminate this Agreement and recover from CONSULTANT all monies paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

## ARTICLE 10

### MISCELLANEOUS

#### 10.1 OWNERSHIP OF DOCUMENTS

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of COUNTY. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of COUNTY and shall be delivered by CONSULTANT to the Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

#### 10.2 OFFICE SPACE

The Agency shall provide available office space for CONSULTANT to perform the services under the Agreement.

#### 10.3 PUBLIC ENTITY CRIMES ACT

CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes, as may be amended from time to time), which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to COUNTY, may not submit a bid on a contract with COUNTY for the construction or repair of a public building or public work, may not submit bids on leases of real property to COUNTY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with COUNTY, and may not transact any business with COUNTY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133,

Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

#### 10.4 CONTINGENCY FEE

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, COUNTY shall have the right, at its discretion, to terminate this Agreement without liability, or to deduct from this Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

#### 10.5 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other party. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement.

CONSULTANT represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of COUNTY shall be comparable to the best local and national standards.

#### 10.6 AUDIT RIGHT AND RETENTION OF RECORDS

COUNTY shall have the right to audit the books, records, and accounts of CONSULTANT that are related to this Project. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project. All books, records, and accounts of CONSULTANT shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, CONSULTANT shall make same available at no cost to COUNTY in written form.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat., as amended from time to time), if applicable, or, if the Florida Public Records Act is not

applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by COUNTY to be applicable to CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for COUNTY's disallowance and recovery of any payment upon such entry.

#### 10.7 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of COUNTY. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees, or agents of COUNTY. No partnership, joint venture, or other joint relationship is created hereby. COUNTY does not extend to CONSULTANT or CONSULTANT's agents any authority of any kind to bind COUNTY in any respect whatsoever.

#### 10.8 THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

#### 10.9 PRIOR AGREEMENTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

#### 10.10 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR BROWARD COUNTY

David Baber  
Administrator and County Historic Preservation Officer  
Broward County Historical Commission  
151 SW 2<sup>nd</sup> Street  
Fort Lauderdale, Florida 33301

FOR CONSULTANT

Coastal Archaeology and History Research, Inc.  
411 SW 10 Street  
Fort Lauderdale, FL 33315

10.11 CONFLICTS

Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment and care related to its performance under this Agreement.

CONSULTANT further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against COUNTY in any legal or administrative proceeding in which he, she, or CONSULTANT is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of COUNTY in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude CONSULTANT or any persons in anyway from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as CONSULTANT.

10.12 MATERIALITY AND WAIVER OF BREACH

COUNTY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

COUNTY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

#### 10.13 COMPLIANCE WITH LAWS

CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

#### 10.14 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

#### 10.15 JOINT PREPARATION

The parties acknowledge that they have sought and received whatever competent advice and counsel necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

#### 10.16 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 10 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 10 shall prevail and be given effect.

#### 10.17 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. By entering into this Agreement, CONSULTANT and COUNTY hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement.

#### 10.18 AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or

similar formality as this Agreement and executed by the Board and CONSULTANT or others delegated authority to or otherwise authorized to execute same on their behalf.

**10.19 NO INTEREST**

Unless required by the Broward County Prompt Payment Ordinance, any monies that are the subject of a dispute regarding this Agreement and that are not paid by COUNTY when claimed to be due shall not be subject to interest. All requirements inconsistent with this provision are hereby waived by CONSULTANT.

**10.20 INCORPORATION BY REFERENCE**

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibit "A" is incorporated into and made a part of this Agreement.

**10.21 REPRESENTATION OF AUTHORITY**

Each individual executing this Agreement on behalf of a party hereto does hereby represent and warrant that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party.

**10.22 MULTIPLE ORIGINALS**

Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 2009, and CONSULTANT, signing by and through its President, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as Ex-officio Clerk of the Broward Board of County Commissioners

By \_\_\_\_\_  
Stacy Ritter, Mayor

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Approved as to form by  
Office of County Attorney  
Broward County, Florida  
JEFFREY J. NEWTON, County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

Approved as to Insurance Requirements:

By \_\_\_\_\_  
Risk Management Division

By \_\_\_\_\_  
Karen S. Gordon  
Assistant County Attorney

KSG:hb  
Arch.Coastal0910.a01  
09-035.01  
9/2/09; 11/10/09

AGREEMENT BETWEEN BROWARD COUNTY AND COASTAL ARCHAEOLOGY AND HISTORY RESEARCH, INC. FOR ARCHAEOLOGICAL CONSULTANT SERVICES.

CONSULTANT

WITNESSES:

COASTAL ARCHAEOLOGY AND HISTORY RESEARCH, INC.

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Matthew De Felice, President

\_\_\_\_\_  
Print or Type Name Above

\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name Above

(Seal)

**Exhibit A**  
**(Replaced with Insurance Certificate)**